

OCT 16 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 2.106 of the)
Commission's Rules to Allocate)
Spectrum at 2 GHz for Use)
by the Mobile-Satellite Service)

ET Docket No. 95-18 /

To: The Commission

REPLY TO ICO RESPONSE

The Critical Infrastructure Communications Coalition ("CICC"), the Fixed Wireless Communications Coalition ("FWCC"), the Association of Public Safety-Communications Officers, International ("APCO"), the Association of American Railroads ("AAR"), the American Petroleum Institute ("API"), and the United Telecom Council ("UTC") (collectively called "Joint Petitioners") hereby reply to the "Response of ICO Services Limited to Petitions for Reconsideration and for Partial Reconsideration" filed in the above-captioned proceeding on October 5, 2000.¹ In support, the Joint Petitioners state as follows:

In their "Joint Petition for Clarification and Reconsideration" filed on September 6, 2000, the Joint Petitioners asked the Commission to take corrective and/or clarifying

¹ See ET Docket No. 95-18, Response of ICO Services Limited to Petitions for Reconsideration and for Partial Reconsideration, (filed Oct. 5, 2000)("ICO Response").

action with respect to five features of the *Second Report and Order* concerning the relocation of the terrestrial fixed services ("FS") microwave licensees in the 2110-2150 MHz and 2165-2200 MHz bands.²

First, Joint Petitioners asked the Commission to clarify that MSS licensees are obligated to relocate incumbents whenever the MSS licensee would *either* receive interference from *or* create interference to incumbent FS operations in these bands, thereby eliminating an inconsistency in the *Second Report and Order* involving two different relocation criteria, *i.e.*, one for the pre-sunset period (interference from MSS satellites to FS receivers) and another for the post-sunset period (interference from FS transmitters to MSS subscriber terminals).³

Second, we asked the Commission to clarify that the 10-year sunset period for FS licensees commences with the initiation of the mandatory negotiation period between MSS and FS licensees.⁴

Third, we requested the Commission to clarify the time of commencement of the relocation negotiation and sunset processes by issuing a public notice noting the date when the first MSS licensee informs the first FS licensee of its desire to negotiate.⁵

² ET Docket No. 95-18, *Second Report and Order and Second Memorandum Opinion and Order*, FCC 00-233, 65 Fed. Reg. 48174 (Aug. 7, 2000) ("*Second Report and Order*").

³ Joint Petition at 3-6.

⁴ *Id.* at 6-7.

⁵ *Id.* at 7-9.

Fourth, we sought clarification that voluntary self-relocating incumbents in the 2110-2150 or 2165-2200 MHz bands may participate in the cost sharing plan adopted by the Commission in the *Second Report and Order*.⁶

And fifth, the Joint Petitioners asked the Commission to confirm that incumbents' license assignments and transfers of control will not result in a loss of primary status.⁷

The ICO Response addresses only one of the five points raised by Joint Petitioners, *i.e.*, the one concerning the adoption of uniform interference criteria for the pre-sunset and post-sunset periods.⁸ No other party has raised any objection to the five points for which clarification was sought.

According to ICO, the proposed "clarification" sought by Joint Petitioners concerning the interference criterion "is simply an attempt to give FS operators primary status beyond the expiration of the generous 10-year sunset date established by the Commission."⁹ In fact, however, it does no such thing, and ICO's characterization of the

⁶ *Id.* at 9-11.

⁷ *Id.* at 11-18.

⁸ ICO indirectly addressed Joint Petitioners' self-relocation argument in the context of responding to the position of SBC Communications, Inc. on the same point. ICO Response at 6, n. 16.

⁹ ICO Response at 9-10.

effect of Joint Petitioner's request is inaccurate. The result of Joint Petitioners' request will be that any FS incumbent with which the new MSS system operator cannot co-exist (whether as a result of interference from the FS transmitter into the MSS subscriber terminal or from the MSS downlink signal into the FS receiver) will be entitled to relocation compensation.

The ICO Response was silent as to the other four points raised by Joint Petitioners.

In conclusion, clarifying (or reconsidering) the five points raised by Joint Petitioners will eliminate ambiguities and inequities that otherwise would exist in the Commission's MSS/FS relocation reimbursement regime. Accordingly, the Commission should grant the clarification and/or reconsideration sought by Joint Petitioners for the reasons set forth herein and in the Joint Petition.

Respectfully submitted,

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Dated: October 16, 2000

CERTIFICATE OF SERVICE

I, Deirdre A. Johnson, a secretary for the law firm of Verner, Liipfert, Bernhard, McPherson, and Hand, Chartered, hereby certify that I have this 16th day of October, 2000, caused a copy of the foregoing "Reply to ICO Response" to be sent, via First Class, United States Mail, postage prepaid to each of the following:

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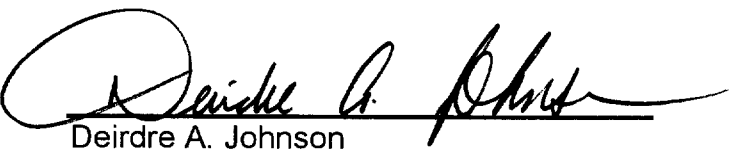
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